IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.4176 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

---

GANDAJI HEMANTSANG DARBAR

Versus

STATE OF GUJARAT

---

Appearance:

MR ASIM J PANDYA for Petitioner No. 1

MR MR MENGDE, A.G.P.for Respondent Nos.1-3

---

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 17/06/2002

ORAL JUDGEMENT

Rule. Mr.Mengde, learned A.G.P. waves service of Rule.

2. The petitioner challenges, by way of this writ petition, order dated 08-04-2002 passed by Respondent No.3, namely, Sub-Divisional Magistrate, Mehsana whereby

his application for licence under the provisions of Arms Act, 1959 (the 'Act' for short) has been rejected.

3. The petitioner had originally moved an application for licence of a fire arm for the purpose of protection of his standing crops. The application came to be rejected on 03-07-1996 and ultimately on 14-09-1998, the District Magistrate directed the Sub-Divisional Magistrate to issue licence to the petitioner. The said licence came to be cancelled on 06-11-1999 based on a report of the Police Inspector, Becharaji to the effect that the petitioner was involved in a criminal case, the proceedings whereof were pending. The petitioner's appeal and revision against the said cancellation order failed. For the purpose of this petition, suffice it to state that ultimately on 29-09-2001 the petitioner was acquitted of the offences for which charges were levelled against him, by the Judgement of the Sessions Court. Accordingly on 08-10-2001, the petitioner applied to Respondent No.3 seeking renewal of licence on the ground of termination of proceedings which were pending against him. The said application came to be rejected by the impugned order dated 08-02-2002 (Annexure-A). The petitioner approached the Home Department as directed but on 06-03-2002, the petitioner was informed that no revision or appeal lay before the said authority.

4. Heard Mr.Asim J.Pandya, learned advocate appearing on behalf of the petitioner. It was submitted that if the case of the petitioner is restored to the Sub-Divisional Magistrate, Respondent No.3 with appropriate directions, the petitioner would not press for any further relief.

5. As entire chain of events show the petitioner application for licence was granted originally and thereafter came to be cancelled on the basis of pendency of criminal case against him. It appears that on his acquittal, he applied for renewal of licence which was already cancelled and hence Respondent No.3 authority, reiterating the same reason, which weighed for cancelling the licence rejected the application. Renewal presupposes existence of a valid licence. Once the licence had been cancelled there would be no occasion for renewing the same and the petitioner ought to have made a fresh application as required under the provisions of Section 13 of the Act. Admittedly the petitioner had on 08-10-2002 claimed renewal of the licence which had been originally granted to him and thereafter cancelled. In light of this situation, the petitioner may apply afresh under Section 13 of the Act, if so advised. In case the

petitioner files a fresh application under Section 13 of the Act, the respondent authorities are directed to process the same in accordance with law and grant the licence in case the petitioner fulfills all the pre-requisite conditions without being influenced by the previous proceedings.

7. With the aforesaid observations, the petition is disposed off. Rule made absolute to the aforesaid extent. There shall be no order as to costs.

(D.A.Mehta, J)

'Bhavesh'